

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7488

TERENCE TERELL BRYAN, a/k/a T. Terell Bryan, a/k/a Terence Bryan,

Petitioner - Appellant,

v.

SCDC; WARDEN CARTLEDGE; RESPONSIBLE OFFICERS,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (4:08-cv-01590-TLW)

Submitted: March 31, 2011

Decided: April 6, 2011

Before NIEMEYER, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Terence Terell Bryan, Appellant Pro Se. Erin Mary Farrell, Daniel Roy Settana, Jr., MCKAY, CAUTHEN, SETTANA & STUBLEY, PA, Columbia, South Carolina; Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Terence Terell Bryan seeks to appeal the district court's order adopting the magistrate judge's report and recommendation and granting the South Carolina Department of Corrections' motion for summary judgment on his 28 U.S.C. § 2254 (2006) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on March 16, 2009. The notice of appeal was filed on October 20, 2010.* Because Bryan failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. Accordingly, we deny Bryan's motions for a certificate of appealability and to appoint

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED